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Economic, social and cultural rights

Report of the United Nations High Commissioner for Human Rights

Summary

The present report, submitted pursuant to General Assembly resolution 48/141, focuses on the link between urbanization and human rights, particularly economic, social and cultural rights, as a contribution to the human rights-based implementation of the New Urban Agenda and the 2030 Agenda for Sustainable Development. The report outlines the key roles played by local and national authorities in ensuring that urbanization advances human rights and inclusive, sustainable and resilient societies, where all people can live in dignity. The report highlights several human rights challenges associated with rapid urbanization and examples of human rights-based approaches adopted by local and national authorities and other stakeholders to address those challenges "to ensure that no one is left behind".

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I. Introduction

1. The world is experiencing urbanization on an unprecedented scale. Over half of the world's population today lives in urban areas, a number expected to rise to 66 per cent by 2050.[1] 90 per cent of the world's population growth will take place in cities, particularly in Africa and Asia. In Africa, the number of urban dwellers is projected to increase from 400 million to 1.26 billion between 2010 and 2050.[2] In the next few decades, the majority of megacities will be located in developing countries, wielding increased influence on the global economy.[3] For example, the Pearl River Delta Metropolitan Region in China, created from the merging of Guangzhou, Shenzhen, Dongguan, Zhaoqing, Foshan, Huizhou, Jiangmen, Zhongshan and Zhuhai, is one of the most densely urbanized regions in the world and has a combined gross domestic product of over US$ 800 billion, which, if it were a country, would make it a member of the Group of 20.[4]

2. The increasing urbanization is due to a number of interlinked factors, primarily the demographic increase within cities, and people moving to urban areas in search of jobs, economic and other opportunities and better services. Other factors pushing people from rural to urban areas include: forced evictions; land grabbing that has deprived many rural communities of their means of subsistence; climate change, jeopardizing the accessibility and quality of land; and natural disasters. Cities are also absorbing a growing number of refugees and internally displaced persons who have fled conflicts, violence and natural disasters.

3. The rapid and spontaneous nature of urbanization brings significant challenges to sustainable development and the realization of human rights. Rapid population expansion in urban areas has placed significant pressure on services, transport and housing systems, and has resulted in greater disparities, inequalities and discrimination. In 2015, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, observed that "urban growth has been synonymous with astonishing accumulation of wealth for a few, accompanied by increasing poverty for many" (see A/70/270, para. 6). This is clearly illustrated by the growth in slums and informal settlements, where an increasing number of people live in inadequate living conditions and lack secure tenure of their housing and land. Many cities have criminalized camping, sleeping and begging in public. Such inequality can fuel instability and unrest, leading to protests and crises (see E/2016/58).

4. Yet urbanization can also be a positive force, with potential to advance human rights and ensure inclusive, sustainable and resilient societies. Cities can drive economic growth and social advancement, and embrace diversity with people of different backgrounds living together. Urbanization can improve people's access to services, including health and education, and decent work for all including the most marginalized. Urban public spaces are often used for peaceful demonstration. Moreover, cities have been at the forefront of defending and protecting civil and political rights and the rights of migrants and minorities. Many city administrations have taken steps to reduce emissions and pollution to protect people's right to a healthy environment.

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[1] See United Nations, Department of Economic and Social Affairs, Population Division, *World Urbanization Prospects: The 2014 Revision, Highlights*. Available at https://esa.un.org/unpd/wup/publications/files/wup2014-highlights.pdf.

[2] See United Nations Human Settlements Programme (UN-Habitat), *The State of African Cities 2014: Re-imagining sustainable urban transitions*. Available from https://unhabitat.org/books/state-of-african-cities-2014-re-imagining-sustainable-urban-transitions/.

[3] See UN-Habitat, *World Cities Report 2016, Urbanization and Development: Emerging Futures*. Available at http://wcr.unhabitat.org/wp-content/uploads/2017/02/WCR-2016-Full-Report.pdf.

[4] See Thijs Van Lindert, "Megacities as diplomatic powers in a neo-medieval world: interview with Parag Khanna", in *The Future of Human Rights in an Urban World: exploring opportunities, threats and challenges*, Thijs van Lindert and Doutje Lettinga, eds. (Amnesty International Netherlands, 2014).

5. As cities grow larger and more autonomous, they play an increasingly pivotal role in securing human rights for the vast majority of the population. Trends in decentralization have yielded greater responsibilities to them in policy areas such as transport and economic development and sometimes larger fiscal autonomy. Given their position at the forefront of urban planning and service delivery, they have a unique role and duty to ensure that the enjoyment of human rights is a reality for the poorest and most marginalized. Several cities, like Gwangju in the Republic of Korea and Nagpur in India, have declared themselves human rights cities and use the human rights framework to guide governance. Yet in many instances, central Governments have not given local authorities the necessary financial resources and legislative powers to realize the human rights of their local constituency.

6. To support the management of urbanization processes in a manner that allows all cities' inhabitants to enjoy their rights, the present report examines the human rights-related challenges and opportunities of urbanization, highlights the positive roles of different actors and provides examples of how urban planning that reflects the indivisibility of all human rights can ensure that urbanization benefits all and guarantees the creation of inclusive cities in accordance with Goal 11 of the Sustainable Development Goals and the New Urban Agenda.

II. Linkages between urbanization and human rights

7. The human rights framework sets out key standards and obligations for advancing and developing urbanization processes and outcomes that are sustainable and socially inclusive; promote equality, combat discrimination in all its forms and empower individuals and communities. Moreover, well-designed and people-centred urbanization helps ensure the protection and the promotion of the human rights of all city dwellers.

8. Both the 2030 Agenda for Sustainable Development and the New Urban Agenda adopted in 2016 are strongly anchored in human rights. Virtually all of the Sustainable Development Goals, although not necessarily framed explicitly in human rights language, are directly linked to one or more human rights, and most targets reflect the content of corresponding human rights standards (see A/HRC/34/25). Both Agendas, and the political commitments contained therein, complement the human rights framework by affirming many existing norms and setting out a road map to achieve them. This includes specific commitments to make cities "inclusive, safe, resilient and sustainable" (Sustainable Development Goal 11).

9. The central commitment to leave no one behind, anchored in the human rights principle of equality and non-discrimination, permeates both Agendas. Rapid urbanization is accompanied by increasing inequality, as evidenced by rapidly growing numbers of informal settlements, of people living in unacceptable conditions and of homeless persons. Under international human rights law, States have an obligation to ensure non-discrimination and equality, both formal and substantive. By having a core commitment to leave no one behind and to reach the furthest behind first, both Agendas aim to ensure that the human rights principle of equality and non-discrimination, as well as the protection of the most vulnerable, cut across all of their goals. While the 2030 Agenda specifically mentions some groups, such as indigenous peoples and persons with disabilities, the principle of equality and non-discrimination means that the commitment to leave no one behind is applicable to all groups and populations, both urban and rural (see A/HRC/34/25).

10. The human rights principle of equality and non-discrimination is also reflected in Sustainable Development Goal 5 on achieving gender equality and empowering all women and girls and Goal 10 on reducing inequality within and between countries. In the New Urban Agenda, States committed to ensure that all persons have access to equal opportunities without discrimination of any kind; fully respect the rights of refugees, migrants and internally displaced persons, regardless of their migration status; and achieve gender equality and empower all women and girls by ensuring women's full and effective participation and equal rights in all fields.

11. The right to adequate housing is at the centre of urbanization. This right is recognized in international human rights law, including in article 25 (1) of the Universal

Declaration of Human Rights and in article 11 of the International Covenant on Economic, Social and Cultural Rights. It goes beyond the right to have a roof over one's head, to the right to a place to live in security, peace and dignity. This includes ensuring that everyone has security of tenure and protection from forced eviction. Housing must also be adequate and habitable, provide its inhabitants with the space and facilities necessary for health and security, protect them from cold, damp, heat, rain and wind, and not be built on or near polluted areas.[5] This right is operationalized by the 2030 Agenda; in target 11.1 of the Sustainable Development Goals, States commit to ensure, by 2030, access for all to adequate, safe and affordable housing and basic services and upgrade slums.

12. Inclusive urbanization also depends on the realization of other economic and social rights enshrined in the International Covenant on Economic, Social and Cultural Rights, such as the rights to decent work, health and social security. The Committee on Economic, Social and Cultural Rights, which monitors the implementation of the Covenant by State parties, provides authoritative interpretations of the Covenant's provisions that could guide the process of urbanization and the implementation of the New Urban Agenda and relevant Sustainable Development Goals. For example, the right to work and the right to just and favourable conditions of work would include ensuring adequate and equal pay for work of equal value without discrimination, safe and healthy working conditions, equal opportunities for promotion, in addition to the right to rest, leisure and a reasonable limitation on working hours.[6] These rights are also dependent on the realization of other rights, such as the right of everyone to social security including social insurance, the right to an adequate standard of living and the right of everyone to the highest attainable standard of physical and mental health.

13. These rights are reflected in many of the Sustainable Development Goals and are integral to the implementation of the New Urban Agenda. Goal 1 on ending poverty includes targets to implement social protection systems (target 1.3); and ensure that everyone has equal rights to economic resources, as well as access to basic services, ownership and control over land (target 1.4). Goal 8 recognizes the crucial link between decent work and combating inequality, deprivation and poverty and includes targets to achieve decent work for all women and men (target 8.5); take immediate and effective measures to eradicate forced labour (target 8.7); and protect labour rights and promote safe and secure working environments for all workers (target 8.8).

14. Several Sustainable Development Goals address the health hazards caused by urbanization including air pollution, noise, high-density, inadequate and unsafe housing, and insufficient water supply and sewage disposal. They include targets to achieve, by 2030, universal health coverage, and to ensure universal access to sexual and reproductive health-care services, affordable essential medicines and vaccines (targets 3.7 and 3.8). They also include targets to substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination (target 3.9); and achieve universal access to safe and affordable drinking water, sanitation and hygiene (target 6.1 and 6.2).

15. In the New Urban Agenda, States commit themselves to promoting equitable and affordable access to sustainable basic physical and social infrastructure for all, including affordable housing, safe drinking water and sanitation, nutritious food, health care and family planning, education, culture and access to communications technologies. This must be read in conjunction with their commitment to fully respect the rights of refugees, migrants and internally displaced persons, regardless of their migration status. It remains pertinent where increasing urbanization has led to inequality, with people having to move away from city centres to areas that are poorly served by transport networks and services.

16. Inclusive urbanization depends on the free, active and meaningful participation of all inhabitants and the enjoyment of civil and political rights that help hold Governments

[5] See Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing.

[6] See Committee on Economic, Social and Cultural Rights, general comment No. 18 (2005) on the right to work.

accountable. Too often, the most marginalized are unable to participate in political processes, and face restrictions and harassment in their everyday life, exacerbating their exclusion. Particularly important are the rights to freedom of assembly and expression, information, participation in decision-making processes, and vote. All of these rights are enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and reaffirmed in the 2030 Agenda and the New Urban Agenda.

17. Sustainable Development Goal 16 echoes much of the content of human rights standards regarding civil and political rights, and explicitly recognizes and reinforces the role these rights play in ensuring sustainable and inclusive development. This Goal includes targets to promote the rule of law and ensure equal access to justice for all (target 16.3); substantially reduce corruption (target 16.5); develop effective, accountable and transparent institutions at all levels (target 16.6); ensure responsive, inclusive, participatory and representative decision-making at all levels, and public access to information (targets 16.7 and 16.10); and protect fundamental freedoms (target 16.10).

18. Similarly, in the New Urban Agenda, States commit themselves to the realization of all human rights and fundamental freedoms, facilitating living together, ending all forms of discrimination and violence, and empowering all individuals and communities while enabling their full and meaningful participation. They also recognize that the implementation of the Agenda must be based on the principles of equality, non-discrimination and accountability.

19. In the New Urban Agenda, States commit themselves to working towards an urban paradigm shift that recognizes the leading role of governments at all levels—national, subnational and local—in a transparent and accountable manner. Under international human rights law, human rights obligations extend to all levels of government, central and local authorities. This means that government authorities at all levels must exercise their authority in accordance with their human rights obligations. As local governments are the closest to community needs, they have a critical role and responsibilities in the implementation of human rights in cities, particularly economic and social rights (see A/HRC/28/62 and A/HRC/30/49).

20. Current trends towards decentralization have resulted in local and subnational governments having greater responsibilities. City administrations in particular are increasingly given additional powers, including greater fiscal autonomy, which, coupled with rapid urbanization and the emergence of megacities, are enhancing their importance as human rights actors. For instance, city administrations are often raising the revenue necessary to fulfil human rights in their own areas. In line with State obligations under international human rights law, local governments therefore have duties to ensure substantive equality of their population, including by investing in essential social services and redistributing income from the richest groups to those that are most marginalized (see E/2017/70, para. 43).

21. The increased responsibility given to local authorities and city administrations must also be accompanied by national Governments transferring the necessary financial and human resources, knowledge, capacity and accountability (see A/HRC/28/62). National Governments cannot delegate their human rights obligations by decentralizing responsibilities without providing the required support to the local authorities.

III. Human rights-based approaches in addressing urbanization challenges

A. Identifying those left behind

22. The commitment to leave no one behind in the New Urban Agenda and the 2030 Agenda for Sustainable Development requires the availability of quality and disaggregated data in order to identify who is excluded or discriminated against, and to develop appropriate measures to address their specific challenges. Data disaggregation is also essential for monitoring the progressive realization of economic, social and cultural rights.

Human rights indicators, which are based on international legal standards, are essential tools for measuring the realization of human rights and the implementation of Sustainable Development Goals at the national and local levels.

23. The nature of current urbanization processes in many countries, which are resulting in rapid, unplanned movement of people often living in extreme poverty, makes the challenges of data collection and disaggregation particularly complex. In many cases, people may not want to be identified as migrants living in an irregular situation, sexual minorities or stateless person. In Kenya, for instance, many of those who became displaced and homeless because of ethnic violence did not want to be identified as internally displaced persons for fear of reprisals.[7] A human rights-based approach to data, respecting key principles such as participation, self-identification, transparency, privacy and accountability, is therefore essential in data collection.[8]

24. Human rights organizations such as national human rights institutions play a pivotal role in identifying and monitoring who is unable to enjoy their human rights and is at risk of being left behind. For example, in Colombia, the Office of the Ombudsman found that 46 out of 1,097 municipalities were at high risk of facing health emergencies and a large part of the population was exposed to unacceptable levels of vulnerability in terms of access to and quality of the water supply.[9] In 2005, the Office of the Ombudsman in Peru issued a study highlighting the problems many sectors of the urban population had in accessing sanitation services and drinking water.[10] In Nigeria, the Nigerian Slum/Informal Settlement Federation helped gather data about the needs of the different communities, which should help with urban planning.[11]

25. While perhaps being the group that has been most left behind, reliable, accurate and comparable data on the number of homeless persons is scarce. Initiatives to count the number of homeless persons have often emerged organically from local communities or civil society organizations (see A/HRC/31/54, para. 67). Nonetheless, there are some examples of city administrations having taken direct action to monitor the situation of homelessness. Several Canadian cities such as Calgary, Edmonton, Ottawa and Vancouver have been conducting surveys to assess the number of street homeless persons (see A/HRC/31/31, para. 4).

26. An inclusive definition of the homeless is necessary to cover the full spectrum of homelessness and prevent further exclusion. While homelessness is frequently understood as people sleeping in the street, it also covers "hidden" situations, such as people living with extended family or friends, people living in temporary and unacceptable shelters, internally displaced persons and refugees and those facing other situations of social exclusion. Narrow definitions risk discriminating against those who may need assistance, such as people living in situations of vulnerability, for example those living in slums and/or facing forced eviction, thereby exacerbating inequality and exclusion. In addition to employing narrow definitions, some authorities also prioritize certain groups within the homeless community by identifying those who are perceived as being particularly vulnerable. While this could be seen as a logical response to situations where there are acute housing shortages, it ignores the fact that homeless persons are already incredibly

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[7] See Victoria Metcalfe and Sara Pavanello, with Prafulla Mishra, "Sanctuary in the city? Urban displacement and vulnerability in Nairobi", Humanitarian Policy Group Working Paper (London, Humanitarian Policy Group, 2011). Available at www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7289.pdf.

[8] See Office of the United Nations High Commissioner for Human Rights (OHCHR), "A human rights-based approach to data: leaving no one behind in the 2030 Agenda for Sustainable Development". Available at www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf.

[9] See Steven Jensen, Allison Corkery and Kate Donald "Realizing rights through the Sustainable Development Goals: the role of national human rights institutions", The Danish Institute for Human Rights and Center for Economic and Social Rights, 2015. Available at www.humanrights.dk/files/media/dokumenter/udgivelser/research/nhri_briefingpaper_may2015.pdf.

[10] Waterlex, "National human rights institutions and water governance: compilation of good practices", 2014, p. 20.

[11] For more information on this organization, see www.justempower.org/movement-building.

vulnerable and it could potentially result in a situation where many people in urgent need of assistance are left without any meaningful help. Any prioritization must therefore be done in accordance with human rights.

B. Guaranteeing access to adequate, safe and affordable housing for all

27. Under international human rights law, States have obligations to respect, protect and fulfil the right to adequate housing for all. Despite the fact that in target 11.1 of the Sustainable Development Goals, States have committed to ensuring access for all to adequate, safe and affordable housing and basic services by 2030, in most developed and developing countries, particularly in cities, housing is becoming increasingly unaffordable for the general population. This is pushing people into inadequate housing and informal settlements where they face the threat of forced eviction because of insecure tenure, contributing to an increase in homelessness.

28. The supply of affordable housing has been considerably reduced by Governments decreasing their budgetary allocations to social housing since the 1980s, with a shift in their focus from that of a provider to that of a facilitator (see A/HRC/10/7, para. 27). The 2017 Housing Europe report on the state of housing in the European Union found that, with a few exceptions, providers of social housing have to "cope with less public funding and rely more on private finance".[12] It also found significant decreases in social housing production, observing for instance that in Italy, the production of social housing had halved between 2005 and 2014, from about 9,000 units per year to 4,600; in Spain, it had fallen from 15,000 in 2005 to 2,500 in 2014; and in Ireland it had decreased from 1,300 homes in 2005 to only 350 in 2014.[13]

29. To meet this short fall in social housing, many States use deregulation to promote the role of the private sector in providing housing. This has led to the weakening of rent protections, including with regard to short leases and rental costs. As areas become more gentrified, rent increases have often meant that established residents have been forced to move elsewhere.

30. Access to housing is also undermined by the financialization of housing as a commodity rather than a place to live in dignity. Global financial actors are investing large amounts of capital, betting on increasing prices to secure and accumulate wealth. This has increased the price of housing beyond the reach of many individuals. The prices "are no longer commensurate with household income levels, and instead are driven by demand for housing assets among global investors".[14]

31. To comply with international human rights law and meet the commitment in Sustainable Development Goal 11, States must ensure people's security of tenure and protect tenants against unreasonable rent levels or rent increases, in accordance with article 11 of the International Covenant on Economic, Social and Cultural Rights and general comment No. 4 (1991) on the right to adequate housing of the Committee on Economic, Social and Cultural Rights. The Guiding Principles on Security of Tenure for the Urban Poor are also relevant (see A/HRC/25/54). States should also ensure that informal settlements are upgraded. Specific examples of this include Kosovo,[15] where in 2005, the Ministry of the Environment and Spatial Planning developed guidelines to assist municipalities to use spatial planning as a means of identifying and regularizing informal

[12] Housing Europe, "The state of housing in the EU 2017" (Brussels, Housing Europe, the European Federation of Public, Cooperative and Social Housing, 2017), p. 11.

[13] Ibid., p. 23.

[14] See the statement by the Special Rapporteur on the right to adequate housing during the interactive dialogue at the Human Rights Council, 1 March 2017. Available at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21264&LangID=E.

[15] All references to Kosovo in the present document should be understood to be in compliance with Security Council resolution 1244 (1999).

settlements.[16] The guidelines and the Law on Spatial Planning establish that the regularization should include ensuring access to infrastructure and services, and guaranteeing property tenure.[17]

32. To help protect inhabitants from the financialization of housing, the province of British Columbia in Canada introduced a housing strategy in Vancouver that includes a tax on vacant housing, differential property tax on luxury residential housing, a "flipping" tax, a speculation tax, restrictions on property ownership by non-permanent residents and measures to recoup increased real estate values resulting from rezoning (see A/HRC/37/53, para. 87).[18]

33. In order to recognize the right to adequate housing of every citizen, many cities have started operating "Housing First" policies that move people from streets and shelters directly into housing with tenancy protections and provide access to support services, without them having to comply with certain conditions such as accepting treatment for addictions. Housing First is currently endorsed by numerous non-governmental organizations as a best practice for Governments and service agencies to use in their fight to end chronic homelessness.[19]

C. Ending poverty in cities through decent work

34. Protecting everyone's right to work and their rights at work is central to harnessing the potential of urbanization in eradicating poverty. However, many of those moving to urban areas are particularly vulnerable to discrimination, and therefore likely to be forced into working in hazardous and precarious conditions, largely in the informal economy, and for low wages that are not enough to lift them out of poverty.

35. Homeless persons, already considerably left behind, frequently experience direct and indirect discrimination in accessing decent work due to, among other factors, the lack of an address and official documentation, or the way they look. For many, the only possibilities are street vending or begging, which are often criminalized and stigmatized by both city administrations, national Governments and the general public, being perceived as infringing on space used for walking and driving. Street vendors are also often exposed to pollution, adverse weather conditions and violence.

36. Both national and local authorities must ensure access to decent work, which in turn helps prevent extreme exclusion and poverty, such as people becoming homeless. Many of the actions that need to be taken fall within the scope of spatial planning, such as more accessible public transport systems and buildings, and connecting slums and informal settlements with decent work opportunities. Other actions include better regulations to guarantee that a flexible labour market does not result in reduced protection of people's rights at work. Measures could also include tax incentives for urban companies and organizations that employ people from traditionally marginalized groups, women, persons with disabilities, migrants and those with a low socioeconomic status.

37. Current trends in deregulation are undermining access to decent work because they can lead to an increase in insecure or precarious contracts (see A/HRC/37/32, para. 46). Some Governments are also removing red tape around health and safety regulations, perceiving them as unfairly hindering business and restricting economic growth. Deregulation can also drive down wages in global supply chains. While low minimum wages can help to promote economic competitiveness, they also result in increasing poverty

[16] Organization for Security and Cooperation in Europe (OSCE), "Assessment of municipal responses to informal settlements in Kosovo" (OSCE Mission in Kosovo, 2011), pp. 6–7.

[17] Ibid., p. 5.

[18] For more information, see http://bcbudget.gov.bc.ca/2018/highlights/2018_Highlights.pdf.

[19] One such non-governmental organization is the United States Interagency Council on Homelessness. See www.usich.gov/tools-for-action/housing-first-checklist.

if the wages are not sufficient to cover basic living costs, especially in cities where the cost of housing is increasing dramatically.[20]

38. The informal economy should also be taken into account in spatial planning. Cities become more inclusive when both formal and informal livelihoods are integrated into local economic and urban plans. For example, in India, the National Policy on Urban Street Vendors has been adopted, recognizing street vending as an integral part of the urban retail trade and distribution system. In exchange for a registration fee, street vendors are given legal status and access to a range of civic services such as provisions for solid waste disposal, public toilets, electricity, water, and storage facilities. To fully protect street vendors' rights, such policies must ensure that the registration system is accessible and affordable for all street vendors.[21] They must also ensure that the areas where vending is permitted are safe and offer an adequate livelihood. Several cities have also taken steps to improve working conditions in the informal economy. In Lima, the City Council has adopted a street vending ordinance that approves licences for a period of two years, promotes formalization and growth of the business of the vendor, and seeks to build vendors' capacities while also protecting their health.[22]

D. Eradicating hunger in cities

39. Ensuring access to nutritious food and the means with which people can feed themselves is a core element of the realization of the right to food. In urban areas, people predominantly rely on being able to purchase food, and those who live below the poverty line can spend up to 75 per cent of their income just on making sure they have enough food to eat.[23] They are therefore extremely vulnerable to price changes. Deregulation in commodity futures markets has resulted in speculation by international investors in food commodities, which has contributed to increasing food prices.[24] This was particularly so during 2007–2008, when there were sharp price fluctuations and hikes that had little to do with the actual supply of food.[25] Since then, various States and organizations, such as the European Union, have curbed financial betting on food contracts and increased the transparency of deals.[26] However civil society is concerned that these measures are not sufficient to protect the right to food.[27]

40. Moreover, many urban areas lack access to places where people can buy healthy food, fruit and vegetables at affordable prices. Large supermarket chains have low profit margins in these areas, and are often reluctant to incur expensive building costs, or are concerned about high crime rates. This leaves inhabitants who lack the financial means, transportation and time to access fresh, healthy food relying on fast food restaurants and calorie-laden packaged foods. Such people are more likely to be obese and spend a greater

[20] See David Cooper, "The minimum wage used to be enough to keep workers out of poverty—it's not anymore", Economic Policy Institute, 4 December 2013. Available at www.epi.org/publication/minimum-wage-workers-poverty-anymore-raising/.

[21] See Global Platform for the Right to the City, "what's the right to the city? inputs for the New Urban Agenda", p.17. Available at www.righttothecityplatform.org.br/download/publicacoes/what-R2C_digital-1.pdf.

[22] See Women in Informal Employment: Globalizing and Organizing, "Focal Cities Lima". Available at www.wiego.org/wiego/focal-cities-lima.

[23] See Mark Tran, "EU curb on food speculation gets qualified welcome from activists", *Guardian*, 15 January 2014.

[24] See Ethical Consumer, "Banks betting on hunger", May 2013. Available at www.ethicalconsumer.org/ethicalreports/foodindustrysectorreport/foodspeculation.aspx.

[25] Ibid.

[26] See OXFAM International, "EU deal on curbing food speculation comes none too soon", 15 January 2014. Available at www.oxfam.org/en/pressroom/reactions/eu-deal-curbing-food-speculation-comes-none-too-soon.

[27] Ibid.

percentage of their time and income shopping for meals. While that phenomenon had been typically confined to developed countries, it is now becoming an issue in African cities.[28]

41. The content of the right to adequate food is particularly relevant when engaging in urban planning to tackle limited access to nutritious food. The right to adequate food is an inclusive right comprising a right to all the nutritional elements that a person needs to lead a healthy and active life, and the means to access them. Food must therefore be available, accessible and adequate. People must have access to food that satisfies their dietary needs, taking into account the individual's age, living conditions, health, occupation and sex, among other factors. In urban planning, consideration should be given to ensuring that farmers' markets or supermarkets or cultivable land are available in all areas of the city so that food deserts are eradicated.

E. Ensuring access to services, including water, sanitation and health

42. Although urbanization can help an increasing the number of people who have access to essential services, such as water, sanitation and health, how to provide those services in a safe, accessible, affordable, equitable and sustainable manner is a significant challenge. The complexity of the challenge is compounded by the surge in the urban population, inadequate infrastructure, austerity measures that have resulted in social spending cuts, and the privatization of water, sanitation and health services. Poor neighbourhoods and households may be excluded from service provision on the basis of their inability to pay.[29] Unplanned settlements often lack adequate water and sewage infrastructure.[30] Even if there is access to piped water, it may be a long walk away, the water source may function only some of the time, there may be long queues, and people may not be able afford to take the time off work to access such services.[31] For instance, people receiving informal water services often pay 5 to 10 times more than those connected to formal services.[32] Migrants and refugees, who are most likely to be living in informal settlements, are often denied access to health care because of their immigration status. Homeless persons also face a number of barriers to accessing services, especially water and sanitation. In addition, they may not be able to access health services due to the lack of an address and official documentation, and they may face stigmatization by public officials.

43. Lack of affordable access to services can result in extreme poverty. Health-care costs can lead to catastrophic expenditure that forces people into poverty. If left untreated, illness and injuries can also undermine people's ability to work and provide for their families. Moreover, those already living in more deprived urban areas are more likely to be exposed to health risks, such as overcrowded housing in hazardous locations, including flood-prone areas or toxic waste sites.

44. Some good examples of addressing these multiple challenges include the public health service of the city of Reggio Emilia in Italy, which provides outpatient care and medical treatment to foreigners, including migrants living in an irregular situation. Several other city administrations have also committed to providing services for undocumented migrants. In March 2012, the metropolitan government of Seoul announced that it would provide medical aid to migrants living in irregular situations who lacked access to social security and health insurance.[33]

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[28] See Jane Battersby and Jonathan Crush, "Africa's urban food deserts", *Urban Forum*, vol. 25, No. 2 (June 2014).

[29] See OHCHR, "Baseline study on the human rights impacts and implications of mega-infrastructure investment", 2017.

[30] See United Nations Children's Fund (UNICEF), *Cities and Children: The Challenge of Urbanisation in Tanzania* (Dar es Salaam, UNICEF Tanzania, 2012).

[31] Ibid.

[32] Catarina de Albuquerque, *On the Right Track: Good practices in realising the rights to water and sanitation* (Lisbon, 2012), p. 58.

[33] See Lee Woo-young, "Medical support set for undocumented migrants", *Korea Herald*, 7 March 2012.

45. In Bangladesh, non-governmental organizations have helped facilitate access to water and sanitation services for those living in informal settlements. According to the Special Rapporteur on the human rights to safe drinking water and sanitation, local authorities in Dhaka were wary of installing services in informal settlements, as they believed it could indicate tacit acceptance of the settlements and give rise to more of them. One organization worked successfully with the local government and service provider to supply the inhabitants with legal connections, and its success reportedly led to a larger scale programme supported by a donor country (see A/HRC/18/33/Add.1, para. 45).

F. Achieving inclusiveness

46. Cities have great potential for enabling social mobilization for wider participation and influence in politics and policymaking, including for the marginalized and excluded.[34] The greater cultural diversity found in urban areas can deconstruct social norms and gender stereotypes and pave the way towards ensuring substantive equality and non-discrimination in the enjoyment of all human rights.

47. This positive potential of urbanization is frequently undermined by processes that lead to urban and spatial segregation, risking more poverty, jeopardizing security of tenure and creating more informal settlements. Particular challenges include affluent city dwellers separating themselves from other parts of cities and living in gated or enclosed neighbourhoods surrounded by private security systems. Such "hard spatial boundaries concentrate privilege and reinforce inequalities, fragmenting the city and undermining any sense of solidarity among urban dwellers".[35] They also remove many of the decision-makers from the real lives of many of their constituents.

48. The lack of affordable housing also undermined inclusiveness. As mentioned above, processes such as gentrification create segregated cities by pushing the poor out of city centres into the periphery, making it harder for them to access essential services and decent work. Furthermore, following the various economic and financial crises, where many States covered significant losses made in financial institutions, Governments introduced reductions in social security coverage and amounts, and increased sanctions for non-compliance with conditionalities. This resulted in people moving to poorer areas where decent employment opportunities are much scarcer.

49. Urban planning has a direct or indirect impact on the rights to freedom of expression, participation and civic engagement. While public spaces enable people to remain engaged and to stake a claim on the city, they are increasingly being privatized, restricted and monitored.[36] City authorities are also responding to terrorism threats with increasing militarization, especially in public areas, which can further undermine people's freedom of assembly and movement, especially those living in poverty and/or migrants and refugees who may be targeted for the way they look.

50. In some cases, urban planning deliberately redesigns public spaces in a way that restricts freedom of association. In addition to helping ensure well-being and health, public spaces give people the means of being able to meet and talk in large numbers and partake in collective cultural activities. However, these spaces are increasingly being privatized, thus "endangering rights to freedom of speech and freedom of assembly".[37] Such privatization limits the space in which human rights are practised.[38] Public spaces must be free of charge,

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[34] Habitat III Issue Papers: 1: inclusive cities, 2015, p. 2. Available at http://habitat3.org/wp-content/uploads/Habitat-III-Issue-Paper-1_Inclusive-Cities-2.0.pdf.

[35] See Sheridan Bartlett, Diana Mitlin and David Sattertwaite, "Urban inequities". Available at www.equityforchildren.org/wp-content/uploads/2013/11/sherry-Barlet-Urban-Inequalities.pdf.

[36] See Bradley L. Garrett, "The privatisation of cities' public spaces is escalating. It is time to take a stand", *Guardian*, 4 August 2015.

[37] See Gregory Smithsimon and Sharon Zukin, "The city's commons: privatization vs. human rights", in *The Future of Human Rights in an Urban World: exploring opportunities, threats and challenges*, Thijs van Lindert and Doukje Lettinga, eds.

[38] Ibid.

safe and free from physical, legal and architectural barriers, including those that discourage the presence of homeless and low income persons (preventive or dissuasive design) and make it difficult for the people with reduced mobility, in particular persons with disabilities and older persons, to move freely.[39]

51. Public transport systems can also further exacerbate exclusion. In unplanned urban settlements, there is often have no or limited access to public transport. Public transport services can also be indirectly discriminatory, for instance by failing to take into account the needs of certain communities, such as persons with disabilities or the security concerns of women, or the need to serve the poorer areas of the city.

52. There are good examples of initiatives by State authorities and civil society organizations at central and local levels that can help cities fulfil their potential for creating more inclusive societies. In Los Angeles in the United States, the Bus Riders Union, an organization of the transit-dependent immigrant working poor, successfully challenged the locational biases of the Metropolitan Transit Authority's plans for a fixed rail system, which would mainly serve the wealthy suburban population, and ignore the more pressing needs of the inner city working poor. The movement resulted in a 1996 court order demanding that the Metropolitan Transit Authority give first budget priority to the purchase of new buses, reduction of bus stop crime, and improvements in bus routing and waiting times.[40]

G. Participatory and accountable governance

53. Sustainable urbanization requires effective and meaningful participation of people as rights holders, especially those in situations of vulnerability, at every stage of the decision-making processes that affects their lives. Too often, the voices of the poor, people living in slums and informal settlements, women, children, minorities, indigenous peoples, migrants, persons with disabilities, refugees, older persons and others are not heard in urban development processes, resulting in development that further marginalizes and discriminates those most in need. Homeless persons are at particular risk of being excluded from political processes. The Special Rapporteur on adequate housing has highlighted how the homeless are rendered voiceless and invisible, banished to the peripheries of cities and towns, out of sight (see A/HRC/31/54, para. 88). Difficulties in accessing justice due to discrimination and stigmatization, lack of money to pay lawyers' fees and a lack of education and/or knowledge about the law further exacerbate their exclusion.

54. National Governments and city administrations must guarantee that all city inhabitants have access to judicial and non-judicial processes and mechanisms that hold States accountable for their obligations to realize human rights, including economic, social and cultural rights. Numerous States have ensured the justiciability of economic and social rights. In France, the right to housing is a recognized social right, enshrined in the preamble of the 1946 Constitution, and reaffirmed and strengthened by a series of laws including the 2008 Law on the Right to Enforceable Housing, which obliges the State to provide housing solutions for the most vulnerable. The Constitution of South Africa contains a range of economic, social and cultural rights, and guarantees their justiciability in a court of law. This is also applied at the city level. For instance, in November 2012, the province of Buenos Aires adopted a law on fair access to habitat, which guarantees the right to housing and to a dignified and sustainable habitat (see A/HRC/28/62, para. 62).

55. There are also numerous examples of organizations providing legal aid to the urban poor, including the homeless, to help them claim their rights. While the actions of such organizations are vital, this does not erode the obligations of States. States are specifically

[39] See "Barcelona Declaration for Habitat III: Public Spaces, Barcelona, 4–5 April 2016. Available at http://habitat3.org/wp-content/uploads/BARCELONA-DECLARATION.pdf.

[40] See Edward W Soja, "The city and spatial justice", *spatial justice*, Issue 1 (September 2009). Available at www.jssj.org/article/la-ville-et-la-justice-spatiale/.

obligated to ensure access to justice, and this should include providing legal aid for those living in poverty.

56. Other accountability mechanisms include national human rights institutions and ombudspersons at both State and city levels that can assess whether or not human rights obligations have been met, monitor the implementation of policies and programmes, and provide avenues for redress, complementing the formal justice system. Examples of city level human rights commissions include Montreal, which has established an ombudsman and human rights training for city government staff. In the city of Gwangju in the Republic of Korea, following the adoption of the Human Rights Ordinance in 2009, local authorities created the Human Rights Office and developed a full-scale municipal human rights action plan accompanied by a set of 100 human rights indicators.

57. There are also many examples of states and city administrations improving the effective and meaningful participation of all city inhabitants in urban governance in recognition of target 11.3 of the Sustainable Development Goals, in which States committed to enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries. Article 184.1 of the Constitution of Kenya states that "national legislation shall provide for the governance and management of urban areas and cities and shall, in particular ... provide for participation by residents in the governance of urban areas and cities". Several local and national authorities are also introducing participatory budgeting. In Brazil, municipal governments can voluntarily adopt a programme known as "participatory budgeting", which allows citizens to decide how to allocate public funds. The municipalities that have adopted participatory budgeting have spent more on education and sanitation and have witnessed a visible decrease in infant mortality.[41] To be fully participatory, such schemes should involve all city inhabitants, regardless of their immigration status, to make sure that the most marginalized and vulnerable are included, especially the homeless and those living in unacceptable conditions. There must also be clear transparency and access to information for all.

H. Environmental sustainability

58. Protecting environmental sustainability is a key element of ensuring inclusive and sustainable development. The 2030 Agenda commits States to increasing the resilience of societies and ecosystems to hazards, shocks and stresses and to reduce the risks and vulnerabilities of the most marginalized people.

59. Given their high concentration of people and infrastructure, cities are particularly affected by disasters and climate change. According to the United Nations Human Settlements Programme (UN-Habitat), globally, 80 per cent of the largest cities are vulnerable to severe impacts from earthquakes, 60 per cent are at risk from storm surges and tsunamis, and all face new impacts caused by climate change such as the health impact of rising temperatures. Persons living in poverty are especially affected since they are more likely to be living in hazardous buildings. They are also more likely to work outside in exposed and hazardous conditions, and often have only limited access to information and the resources necessary to adapt.

60. A human rights-based approach is key to increasing the resilience of urban societies, economies and the environment to withstand shocks, embrace uncertainty and manage risks. Such an approach is based on the indivisibility and interdependence of all human rights and includes putting people at the centre, addressing the root causes of vulnerabilities and ensuring accountability and access to remedies (see A/HRC/37/30, paras. 39–49). Human rights bodies have underscored that States have duties to protect citizens against foreseeable environmental impairment of human rights, whether or not the States directly cause the harm. An example is a case that was considered by the European Court of Human

[41] See Brian Wampler and Mike Touchton, "Brazil let its citizens make decisions about city budgets. Here's what happened", *Washington Post*, 22 January 2014.

Rights regarding a mudslide in the Caucasus that killed several inhabitants of the town of Tyrnauz.[42] Although the Government did not cause the mudslide, the Court held that it still had a responsibility to take appropriate preventative measures to safeguard the lives of those within its jurisdiction.

61. Ensuring environmental sustainability intersects with many of the issues raised in the present report, such as ensuring participation in urban governance and access to information, available safe housing that can prevent people having to live on flood plains for instance; and decent working conditions. Civil society can play a key role in promoting the participation of affected communities. For instance, together with local partner organizations, the Asia Pacific Forum on Women, Law and Development helps urban poor communities in the region document their own experiences of climate change and advocate for them to be taken into account. After conducting its own research, a community in the Philippines passed a resolution to prevent the use of destructive fishing practices and now requires individuals to adhere to strict fishing and hunting schedules (see A/HRC/28/61, para. 94).

IV. Conclusion and recommendations

62. **Human rights are key to ensuring urbanization that is sustainable and socially inclusive, promotes equality, combats discrimination in all its forms and empowers individuals and communities. At the same time, urbanization offers largely untapped potential for the protection and promotion of human rights for all city inhabitants, by making cities places of equal opportunity, where all can live in security, peace and dignity.**

63. **The Sustainable Development Goals and the New Urban Agenda both require that no one be left behind. The most visible manifestation of those being left behind is the growing number of people living in unacceptable conditions, including being homeless.**

64. **Therefore, it is important to build coherence and synergies between human rights, the Sustainable Development Goals and the New Urban Agenda in order to strengthen human rights and sustainable urbanization worldwide. The human rights-based implementation and monitoring of the two Agendas include:**

(a) **Ensuring that national and local legislation, policies and programmes recognize and ensure the justiciability in courts of all human rights, including economic, social and cultural rights;**

(b) **Recognizing that housing and land are not mere commodities; and guaranteeing security of tenure for all and the social function of housing, land and property in law and policies;**

(c) **Ensuring that urban and spatial planning respects, protects and fulfils human rights. Professionals should be aware of human rights standards and principles, and work closely with civil society;**

(d) **Addressing homelessness and forced evictions with a cross-sectoral human rights based strategy. This must include tackling their structural causes, including the commodification and financialization of housing. In this regard, States should consider the recommendations provided by the Special Rapporteur on adequate housing;**

(e) **Ensuring free, active and meaningful participation of all, particularly the most marginalized, in all urban policies and programmes, including spatial planning and budgeting. This requires involving inhabitants in the early stages of the**

[42] See European Court of Human Rights, *Budayeva and others v. Russia*, application No. 15339/02 (2008).

processes and upholding fundamental rights and freedoms, in particular the rights to freedom of speech and assembly, to information and to vote;

(f) Strengthening the accountability of authorities for respecting, protecting and promoting the human rights of all city dwellers. This includes clearly articulating the responsibilities of national and local governments to ensure the realization of human rights, and providing them with the necessary resources;

(g) Ending laws and policies that can result in criminalizing people living in poverty, including those living in informal settlements and homeless persons;

(h) Guaranteeing access to all services, including water and sanitation, for all urban inhabitants, including those who are homeless or living in informal settlements;

(i) Ensuring that urban financing models are grounded in human rights. They must be: (i) the product of transparent and participatory processes, to ensure that they benefit the poorest and most marginalized; and (ii) equal and non-discriminatory, with financial service access being guaranteed for all people, across income, gender, geography, age and other considerations.